**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD**
**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**
**W.P. No. 22337 of 2015**

Between:

M/s. Prathiba Constructions .. Petitioner

And

State of Andhra Pradesh
and three others .. Respondents

Date of Judgment Pronounced: 11.08.2015

**SUBMITTED FOR APPROVAL**:

**HON'BLE SRI JUSTICE G. CHANDRAIAH**
**&**
**HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

1. Whether Reporters of Local newspapers may be allowed to see the judgments? Yes/No

2. Whether the copies of judgment may be Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the judgment? marked to Law Reporters/Journals Yes/No

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**<u>O R D E R</u>:**- (per Hon'ble Sri Justice Challa Kodanda Ram)

This writ petition is filed seeking to set aside both the revisional order dated 27.02.2013 passed by the 3rd respondent-Deputy Commissioner (CT) and consequential revised proceedings dated 25.03.2013 issued by the 4th respondent – Commercial Tax Officer.

Heard Sri P.Girish Kumar, learned counsel for the petitioner and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Tax (A.P.) and perused the material placed on record.

A careful perusal of the assessment order dated 18.03.2008 issued by the Commercial Tax Officer, reveals that there are various disputed questions of fact. The learned counsel for the petitioner raises disputed questions challenging the validity of the impugned revisional order dated 27.02.2013 passed by the 3rd respondent. A perusal of the revisonal order indicates that it is essentially required to be considered based on the facts on record. In that view of the matter, we are not inclined to entertain this writ petition, however the petitioner has an alternative remedy of appeal before the Sales Tax Appellate Tribunal (for brevity "STAT"), Visakhapatnam as contemplated under Section 33 of the Andhra Pradesh General Sales Tax Act, 1957 (for short "the Act").

As a matter of fact, the petitioner has already preferred an Appeal in A.R.No.129 / 2013 before the STAT, Visakhapatnam but on account of financial stringency, the petitioner could not comply with the condition of pre-deposit. It is brought to our notice that the judgment of this Court in the case of **Ankamma Trading Company v. Appellate Deputy Commissioner, Guntur and Others**[1] was suspended by the Apex Court.

In the above view of the mater and particularly considering the fact that the petitioner has already preferred an appeal in A.R.No. 129 / 2013 before the STAT, Visakhapatnam which is said to have been pending adjudication, we are inclined to dispose of the writ petition with the following direction:

> "The petitioner shall comply with the condition of pre-deposit as provided under the relevant provisions of the Act, within a period of six weeks from the date of receipt of a copy of this order, and on such compliance, the STAT, Visakhapatnam shall take the appeal in A.R.No. 129 / 2013 said to have been preferred by the petitioner, on file and dispose of the same on merits."

With the above direction, the writ petition is disposed of.  No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

**G. CHANDRAIAH, J**

11.08.2015

**CHALLA KODANDA RAM,J**

bcj

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